

## VIRTUAL GOLD PROGRAM LICENSE AGREEMENT

**IMPORTANT: PLEASE READ CAREFULLY. THIS VIRTUAL GOLD PROGRAM LICENSE AGREEMENT CONSTITUTES A LEGAL AGREEMENT (“Agreement”) BETWEEN YOU (AS AN INDIVIDUAL OR AS A SINGLE ENTITY) AND VIRTUAL GOLD, INC. (“VGI”). BY INSTALLING, COPYING, OR OTHERWISE USING THE PROGRAM, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL OR USE THE PROGRAM AND PROMPTLY RETURN THE UNUSED PROGRAM TO THE PLACE OF PURCHASE TO RECEIVE A FULL REFUND.**

The term “Program” means the original program and all whole or partial copies of it. A Program consists of machine-readable instructions, its components, data, audio-visual content (such as images, text, recordings or pictures), documentation and related licensed materials.

The Program is owned by Virtual Gold, Inc. or one of its subsidiaries (VGI), and is copyrighted and licensed, not sold.

**This Agreement is the complete agreement regarding the use of this Program, and replaces any prior oral or written communications between you and VGI.**

### **1. Certificate of Authenticity**

The Certificate of Authenticity for this Program is evidence of your authorization to use this Program and of your eligibility for warranty services, future upgrade program prices (if announced), and potential special or promotional opportunities. It specifies the operating environment of the program and the number of user access licenses you have acquired to this program.

### **2. Grant of License**

#### **a. Allowable use of the Program**

VGI grants you a nonexclusive license to use the Program.

You may use the Program to the extent of authorizations you have acquired and make and install copies to support the level of use authorized, providing you reproduce the copyright notice and any other legends of ownership on each copy, or partial copy, of the Program.

You will ensure that anyone who uses the Program does so only in compliance with the terms of this Agreement.

If you acquire this Program as a program upgrade, your authorization to use prior versions of the Program is terminated.

**b. You may not:**

- (i) use, copy, modify, or distribute the Program except as provided in this Agreement;
- (ii) reverse assemble, reverse compile, reverse engineer, or otherwise translate the Program except to the extent specifically permitted by law without the possibility of contractual waiver;
- (iii) sublicense, rent, or lease any portion of Program.

**c. Operating Environment:**

You may only use the program in the operating environment specified in the Certificate of Authenticity.

**d. User Access:**

The Certificate of Authenticity specifies the number of user licenses you have acquired, i.e., the maximum number of computers, workstations, or other digital electronic devices that are authorized to access the program at any given point in time. This number should also appear on the top of the first page of this Agreement.

**3. Program Transfer**

Provided you retain no copies, you may permanently transfer all your license rights and obligations under a Certificate of Authenticity to another party, provided you retain no copies, by transferring the Certificate of Authenticity, Program, this Agreement and all documentation, and the receiving party agrees to the terms of this Agreement. If the Program is an upgrade, all prior versions of the program must also be transferred.

**4. Charges and Taxes**

VGI defines authorized use for the Program for charging purposes and specifies it in the Certificate of Authenticity. Charges are based on the extent of use. You must notify VGI or its reseller if you change the extent of user access and pay any applicable charges. VGI does not give refunds or credits for charges already due or paid.

If any authority imposes a duty, tax, levy or fee, excluding those based on VGI's net income, upon the Program supplied by VGI under this Agreement, then you agree to pay that amount as VGI specifies or supply exemption documentation.

## 5. Limited Warranty

If you paid a license fee for the Program, VGI warrants that for a period of ninety (90) days (the “warranty period”) from the date of acquisition of the Program, when the Program is used in the specified operating environment it will perform substantially in accordance with its specification. VGI does not warrant uninterrupted or error-free operation of the Program or that we will correct all Program defects. In addition, the security mechanisms implemented by the Program and its operating environment have inherent limitations, and you must determine that the Program sufficiently meets your requirements. This is a program that outputs statistical facts. You are responsible for the interpretation of statistical facts presented by the program and the consequences of actions related to such interpretation.

During the warranty period warranty service is provided without charge for the portion of the Program that has not been modified by you. If the Program does not function as warranted during the warranty period and VGI is unable to resolve the problem after commercially reasonable efforts at providing a correction, restriction, or bypass, you may return the Program to the party (either VGI or its reseller) from whom you acquired it and receive a refund in the amount you paid for it. To be eligible, you must possess the Certificate of Authenticity and the warranty period that covered the first acquisition of the Program must not have elapsed.

If any modifications are made to the Program by you during the warranty period; if you violate the terms of this Agreement; or if the media is subjected to accident, abuse or improper use, then this warranty terminates immediately. This warranty does not apply if the Program is used in an operating environment different from that specified in the Certificate of Authenticity.

**THESE WARRANTIES ARE YOUR EXCLUSIVE WARRANTIES AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VGI DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

These warranties give you specific legal rights, and you may also have other rights which vary from jurisdiction to jurisdiction. Some jurisdictions do not allow the exclusion or limitation of implied warranties, so the above exclusion or limitation may not apply to you. In the event such warranties are limited in duration to the warranty period, No warranties apply after that period.

## 6. Limitation of Liability

Circumstances may arise where, because of a default on VGI's part or other liability, you are entitled to recover damages from VGI. In each such instance, regardless of the basis on which you may be entitled to recover damages from VGI, (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), VGI is liable for no more than:

- (1) damages for bodily injury (including death) and damage to real property and tangible personal property and
- (2) the amount of any other actual direct damages up to the greater of U.S. \$1000 or the charges for the Program that is the subject of the claim.

**TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VGI WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF BUSINESS SAVINGS OR ANY OTHER PECUNIARY LOSS), EVEN IF VGI OR ITS RESELLER, HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES AND SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.**

VGI will not be liable for

- (1) loss of, or damage to, your records or data or
- (2) any damage claimed by you based on any third party claim.
- (3) any damage claimed by you based on your interpretation of statistical facts reported by the Program.

This limitation of liability also applies to any developer of a Program supplied to VGI. It is the maximum for which VGI and its suppliers are collectively responsible.

## **7. High Risk Activities**

The Program is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). Accordingly, Licensor and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities.

## **8. Miscellaneous**

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

VGI may terminate your license if you fail to comply with the terms and conditions of the Agreement. If VGI does so, your authorization to use the Program and any of its component parts is also terminated.

You agree to comply with applicable export laws and regulations.

Neither you nor VGI is responsible for failure to fulfill any obligations due to causes beyond its control.

The laws of the state of New York govern this Agreement.